

### **REMARKS/DISCUSSION OF ISSUES**

By this Amendment, Applicants cancel claim 3 without disclaimer of the underlying subject matter or prejudice against future prosecution. Applicants also amend claims 1-2 and 4-10, and add new claims 11-15. Accordingly, claims 1-2 and 4-15 are pending in the application.

Applicants thank the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority documents.

Reexamination and reconsideration are respectfully requested in view of the following Remarks.

### **OBJECTIONS TO THE DRAWINGS**

The Office Action objects to the drawings, vaguely stating that “*the limitations regarding the actual methods and the different types of control messages must be shown or the feature(s) canceled from the claim(s).*”

Applicants respectfully submit that all of the features of the claimed invention are illustrated in the drawings to the extent required under 37 C.F.R. § 1.83(a). For example, the drawings clearly illustrates the “control message” A issuing from bandwidth manager BM to source Q. If the Examiner believes that the drawing fails to properly illustrate features of the invention in compliance with 37 C.F.R. § 1.83(a), then Applicants respectfully request that he identify with particularity which features he believes are not properly illustrated.

Otherwise, Applicants respectfully traverse the objections to the drawings and respectfully request that they be withdrawn.

### **OBJECTIONS TO THE CLAIMS**

Although Applicants are unaware of any rule against “excessive labeling within the claims,” by this Amendment Applicants amend claims 1-2 and 4-10 to remove the reference numerals from the claims.

Accordingly, Applicants respectfully request that the objections to the claims be withdrawn.

**35 U.S.C. § 112**

The Office Action rejects claim 9 under 35 U.S.C. § 112.

By this Amendment Applicants amend claim 9 and the objected-to language is deleted.

Accordingly, Applicants respectfully request that the rejection of claim 9 under 35 U.S.C. § 112 be withdrawn.

**35 U.S.C. § 102 & 103**

The Office Action rejects: claims 1, 2, 4 and 9-10 under 35 U.S.C. § 102 over Arauz-Rosado U.S. Patent Publication 2006/0174015 ("Arauz-Rosado"); claim 8 under 35 U.S.C. § 103 over Arauz-Rosado in view of Hanson U.S. Patent 5,633,861 ("Hanson"); claims 5-6 under 35 U.S.C. § 103 over Arauz-Rosado in view of Akashi U.S. Patent 4,500,990 ("Akashi"); and claim 7 under 35 U.S.C. § 103 over Arauz-Rosado in view of Igarashi U.S. Patent Publication 2007/0184839 ("Igarashi").

Applicants respectfully submit that all of the claims 1-2 and 4-10 are patentable over the cited art for at least the following reasons.

**Claim 1**

Among other things, the method of claim 1 includes observing network traffic at a bandwidth manager of the broadcast network, the network traffic including a data stream broadcast from a first network participant.

The Office Action cites the "Bandwidth Allocation Server" (BWAS) mentioned in paragraphs [0024] and [0025] of the specification.

However, Applicants respectfully submit that the Office Action fails to cite anything that discloses that the BWAS observes network traffic of a broadcast network, the network traffic including a data stream broadcast from a first network participant.

The Office Action cites paragraph [0133] where it mentions that an Ethernet Address Resolution Protocol (ARP) message can be used in a physical network supporting broadcast.

However, the ARP message of paragraph [0133] does not pertain to the prior art network of paragraphs [0024] and [0025] in the background section of Arauz-Rosado. Indeed, paragraphs [0024] and [0025] describe a system disclosed in EP1024637 (corresponding to Shaffer et al. US Patent 6,757,277 ("Shaffer"). Shaffer discloses a telephony-over-LAN system with H.323 terminals and an H.323 gateway. Of course Shaffer makes absolutely no mention of any broadcasts, or of observing network traffic of a broadcast network, the network traffic including a data stream broadcast from a first network participant.

Meanwhile, all that [0133] discloses is that an ARP message can be used in a physical network supporting broadcast. Paragraph [0133] does not disclose or suggest observing network traffic at a bandwidth manager of the broadcast network, the network traffic including a data stream broadcast from a first network participant.

So Arauz-Rosado does not disclose the method of claim 1.

Also among other things, in the method of claim 3 the control message from the bandwidth manager includes a sender address matching an address of the second network participant.

Applicants respectfully submit that Arauz-Rosado does not disclose such a feature. Furthermore, in the rejection of the previously-pending claim 3, the Office Action cited Hanson. Hanson discloses transmission of a normal data packet from a destination node to a source node where the data packet includes a special channel utilization factor (CUF) field 415 that is updated by one or more nodes between the destination node and the source node. Hanson does not disclose that it sends a control message in the case of a risk of overload of the broadcast network. Hanson does not disclose any control message transmitted from a bandwidth manager that causes the first network participant to reduce its data stream and which includes a sender address matching an address of a second network participant.

So no combination of Arauz-Rosado and Hanson could produce the method of claim 1. Applicants also note that the proposed reason for the combination is improper since it would destroy the fundamental objective of Arauz-Rosado.

Accordingly, for at least these reasons, Applicants respectfully submit that

claim 1 is patentable over the cited art.

Claims 2 and 4-8

Claims 2 and 4-8 depend from claim 1 and are deemed patentable for at least the same reasons as set forth above with respect to claim 1. Also, in particular, with respect to claims 5-6, Applicants respectfully traverse the proposed combination. Applicants respectfully submit that the reason for the proposed combination makes no sense.

Arauz-Rosado (from Shaffer) already includes a BWAS “*to notify end nodes of the overflowing situation.*” The Office Action fails to explain why someone of skill in the art would ever want to replace Arauz-Rosado’s BWAS with the techniques supposedly disclosed of Akashi.

Claim 9

Among other things, the network apparatus of claim 9 is adapted to observe network traffic of a broadcast network in which the network apparatus participates, the network traffic including a data stream broadcast from a first network participant as source to a second network participant as a target, and is adapted to transmit a control message to the first network participant, which message causes the first network participant to reduce the data stream, the control message from the bandwidth manager including a sender address matching an address of the second network participant.

For similar reasons to those set forth above with respect to claim 1, Applicants respectfully submit that the cited art does not disclose or suggest a network apparatus that includes this combination of features.

Claim 10

Claim 10 depends from claim 9 and is deemed patentable for at least the same reasons as set forth above with respect to claim 9.

**NEW CLAIMS 11-15**

New claims 11-15 depend variously from claims 1 and 9 and are deemed patentable for at least the reasons set forth above with respect to claims 1 and 9.

**CONCLUSION**

In view of the foregoing explanations, Applicants respectfully request that the Examiner reconsider and reexamine the present application, allow claims 1-2 and 4-15 and pass the application to issue. In the event that there are any outstanding matters remaining in the present application, the Examiner is invited to contact Kenneth D. Springer (Reg. No. 39,843) at (571) 283.0720 to discuss these matters.

Respectfully submitted,

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